

Bowen Seeks Balance in RFID Law

A California bill aimed at protecting consumer privacy will not interfere with supply chain applications, says its author, Sen. Debra Bowen.

March 1, 2004—California State Senator Debra Bowen (D-Redondo Beach), author of a new bill aimed at curtailing the use of RFID tags to track consumers, says her aim is not to ban the technology or limit its many potential positive uses. Instead, she hopes the bill, introduced last week, will facilitate those uses while protecting consumer privacy.

"The focus of the bill is on personally identifiable data," Bowen tells *RFID Journal*. "I don't envision this as having any applicability to inventory control systems or cargo container tracking. I'm enthusiastic about the use of RFID tags in automating processes for sorting types of plastics for recycling. I certainly don't want to interfere with those kinds of uses."

The bill is based on well-established principles, originally outlined in the Code of Fair Information Practices developed in 1973 by the U.S. Department of Health, Education and Welfare. It calls for companies to inform consumers whenever companies use RFID tags—whether embedded in items being purchased or attached to them—to collect data. The merchants must obtain a consumer's consent before they use RFID technology to track his or her purchases. It requires all RFID tags to be killed before the consumer leaves the store.

California already requires express consent before retailers can use loyalty cards to track consumers' purchases. The concern is that RFID data could be linked to an individual's credit card to identify them personally.

"The key is going to be linkage to personal identification," says Bowen. "It's one thing to know you are dealing with customer 442, and it's another thing to know you are dealing with Jane Doe and her social security number is such and such and her address so and so."

Bowen acknowledges the issue of killing the tag is complex. For one thing, consumers would have no easy way to confirm the tag was dead. Companies would also have to try to read the tag again at the store exit to ensure that it wasn't inadvertently left active. And killing the tag would prevent it from being used by the consumer in the home or, after the tag-containing item is discarded, by municipalities or industries trying to recycle the item's components.

"I'm sure in the legislative process, we will have discussions about how you enable the desirable applications," she says. "I see very beneficial uses of RFID tags, and the trick will be to enable those without simply allowing a blanket ability to track people. How do you allow your washing machine to read data on the RFID tag without giving everyone you pass on the street the same information?"

Hearings will be held on the bill this spring. The last time Bowen held hearings, none of the companies that were planning to use the technology showed up. Bowen has since had discussions with some companies, and she's hopeful that they will participate in the hearings this time. She is not anticipating stiff opposition to the bill from retailers, consumer goods manufacturers and other companies that plan to use the technology.

"There are some people that never want the government involved," she says. "But there are others who have seen the kind of backlash that has occurred with other technologies when social issues weren't addressed. They may feel that it's better to deal with those issues up front."

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